



# MISSOURI DEPARTMENT OF MENTAL HEALTH

DORN SCHUFFMAN, DEPARTMENT DIRECTOR



DEPARTMENT  
OPERATING  
REGULATION  
NUMBER

DOR  
1.240

CHAPTER General Department	SUBCHAPTER Regulations	EFFECTIVE DATE April 1, 2004	NUMBER OF PAGES 4	PAGE NUMBER 1 of 4
SUBJECT Exceptions Committee		AUTHORITY Section 630.656 and 630.170 RSMo	HISTORY See below	
PERSON RESPONSIBLE Director, Office of Quality Management			SUNSET DATE 7-1-07	

Purpose: Prescribes responsibilities and procedures of the Exceptions Committee.

Application: Applies to the entire department.

(1) The Exceptions Committee is responsible for approving or denying any request for a waiver or exception of an administrative rule or other regulation as authorized by the department director.

(A) These are open meetings in accordance with chapter 610 RSMo.

(B) The committee may conduct private sessions as authorized under sections 610.021 and 610.022 RSMo.

(2) Definitions. Terms are defined as follows.

(A) Applicant, any provider or individual who applies to the Exceptions Committee for an exception.

(B) Disqualifying incident, a crime which under 9 CSR 10-5.190 results in a person being disqualified from employment, or one (1) or more administrative findings of abuse, neglect or misuse of funds/property which, under 9 CSR 10-5.200 leads to a person being listed on the department of mental health disqualification registry;

(C) Exception, a decision by the department not to enforce an administrative rule under the individual circumstances described in the request for an exception and the conditions described in the approval. None of the following are subject matter of an exception:

1. A contention that the rule is not valid;
2. A contention that the provider is in fact in compliance with the rule;

and

3. A request for an interpretation of a rule.

(3) Exceptions Committee Membership. The committee shall be composed of -

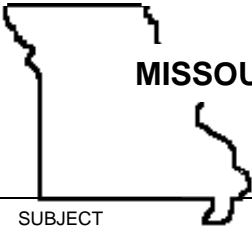
(A) At least two but not more than three representatives from each division, appointed by the division director;

(B) Other department representative(s) appointed by the department director as a voting participant(s);

(C) Other persons invited by the committee on an ad hoc basis in a non-voting capacity;

(D) Staff from the Office of Quality Management who serves as a non-voting coordinator(s) of the committee; and .

(E) The director of licensure and certification, or designee, in a non-voting capacity.



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(F) Persons serving under subsections (A) and (B) shall appear in person and shall not send other persons to serve by proxy.

(4) Quorum. A quorum is required at each meeting. A quorum shall consist of –

(A) At least one member from each division;

(B) Any other voting member appointed under section (3)(B); and

(C) Any ad hoc consultant considered by the committee to be a necessary participant, except that the consultant may participate in writing, by e-mail or by telephone.

(5) Responsibilities of the Exceptions Committee Membership.

(A) Prior to each meeting, members shall gather information regarding requests relating to their divisions or offices so as to be well-informed regarding the nature of the request.

(B) The coordinator is responsible for –

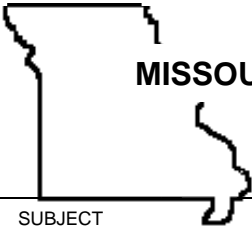
1. Circulating requests for exceptions as they arrive at the department;
2. Maintaining a system for tracking requests;
3. Organizing each meeting;
4. Providing public notice of the date and time of each meeting;
5. Preparing for each request a summary of issues involved, including the relevant regulations, policies, and precedents;
6. Assuring that a quorum is present at each meeting;
7. Preparing minutes of each meeting;
8. Maintaining a log of the committee's decisions;
9. Writing and sending letters announcing the committee's decisions within five working days of the decision;
10. Completing the data analysis under section (12) of this regulation;
11. Soliciting from the recipients of exceptions the documentation that is required under the conditions of the exception; and
12. Advising the department director when an issue, such as a financial or information system technology rule, is to be presented for an exception so that the department director can appoint a member from the respective office in support of (3)(B).

(6) Decision-making Process.

(A) If the request relates to any rule other than 9 CSR 10-5.190\*, all members will discuss the request but only the affected division(s) or office(s) has decision-making authority.

(B) If the request relates to criminal backgrounds under 9 CSR 10-5.190, all members will discuss and have decision input. If the committee cannot reach a consensus, each division or office will receive one vote. If the representative of the affected division or office is not in agreement with the vote, he/she will have an

\* 9 CSR 10-5.190 refers to the rule on Background Screening for Employees and Volunteers



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opportunity to discuss it within the division for the purpose of suggesting terms and conditions to qualify the exception. The Exceptions Committee will reconsider the request with recommended terms and conditions at the next meeting.

## (7) Decision-making Criteria.

(A) If the request relates to any rule other than 9 CSR 10-5.190 the committee shall weigh the request in terms of the following.

1. Is the exception needed?
2. Is the information complete?
3. Is there a potentially harmful situation?
4. Would an exception violate the spirit of the rule?
5. Would an exception undermine the quality of service intended by the rule?

6. Is the request from a person authorized to make a request?
7. Would the exception violate state or federal law?
8. Is the exception in the best interest of consumer(s)?
9. Is the exception tailored to individual circumstances?
10. Would an exception be consistent with prior decisions of the Exceptions Committee?

(B) If the request relates to persons who are disqualified from employment under 9 CSR 10-5.190, the committee may approve the request if a clear showing has been made that the person will not commit -

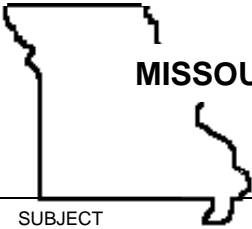
1. Any additional acts for which the person had originally been disqualified;
- or
2. Any other acts which would be harmful to a patient, resident, or client.

(C) In addition to the foregoing in subsection (7)(B), the following considerations apply to exceptions related to the DMH disqualification registry.

1. Would the disqualifying incident have been considered disqualifying under current practice.
2. If the incident had been prosecuted, would it have met the definition of any of those crimes that are not subject to exception under section 630.170 RSMo.

(8) Each decision of the committee shall be announced to the applicant by means of a letter. The letter shall -

- (A) Reference the letter requesting the exception;
- (B) State whether or not the request was approved;
- (C) State any conditions or termination dates, if applicable;
- (D) Advise the applicant to keep the letter on file for review by DMH staff;
- (E) Indicate that an approval becomes effective on the date of the letter; and
- (F) Be made available to -
  1. The members of the exception committee;
  2. Department staff responsible for oversight of provider contracts; and
  3. The appropriate licensing and certification staff.



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(9) Rescissions. Upon receipt of information that an exception should be rescinded, the committee shall pursue the following process:

- (A) Request an inquiry by licensure and certification or other DMH staff;
- (B) Review the finding of the inquiry; and
- (C) If the committee finds cause in the report to rescind the exception, a notice of rescission with an effective date shall be sent to the applicant by certified mail.

(10) Each year, the Exceptions Committee will analyze data on the Exceptions Committee Log and present trends and analysis, including recommendations for rule changes or other steps. The analysis will be submitted to the Deputy Director, Office of Quality Management and to the Regulation Review Team by April 30th.

*History: Original effective August 1, 2001. Amendment effective 15, 2002.  
Amendment effective April 1, 2004.*